

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROBERT J. HANFLING,
Chapter 7 Trustee of the Bankruptcy
Estates of ATG, Inc. and ATG
Catalytics LLC,

Plaintiff,

v.

EPSTEIN BECKER & GREEN, P.C.,
et al.,

Defendants.

Civil Action No. 05-10077-RGS

SUPPLEMENTAL AFFIDAVT OF PAULA M. BAGGER

I, Paula M. Bagger, having been duly sworn, depose and state as follows:

1. I am a member in good standing of the Bar of the Supreme Judicial Court of the Commonwealth of Massachusetts and of this Court. I am a partner in the law firm of Cooke Clancy & Gruenthal LLP, which represents defendant Epstein Becker & Green, P.C. in the above-captioned action.

2. Attached hereto as Exhibit A is a true and accurate photocopy of a document, produced by EBG in discovery, Bates-stamped EBG 3634-35, to which the plaintiff refers in his Statement of Material Facts in Dispute. Plaintiff represented that he would file this document under seal, but he need not do so, as Christopher Nagel waived the attorney-client privilege as part of his settlement agreement with the Trustee.

3. Attached hereto as Exhibit B is a true accurate photocopy of a document, produced by EBG in discovery, Bates-stamped EBG 3637, to which the plaintiff refers in his

Statement of Material Facts in Dispute. Plaintiff represented that he would file this document under seal, but he need not do so, as Christopher Nagel waived the attorney-client privilege as part of his settlement agreement with the Trustee.

4. Attached hereto as Exhibit C are true and accurate photocopies of pages of the transcript of the deposition of Carole Schwartz Rendon, taken in this action.

5. Attached hereto as Exhibit D are true and accurate photocopies of pages of the transcript of the deposition of Ethan Jacks, taken in this action.

6. Attached hereto as Exhibit E are true and accurate photocopies of pages of the transcript of the deposition of Eugene Berman, taken in this action.

7. Attached hereto as Exhibit F is a true and accurate photocopy of pages from the transcript of the deposition of Michael J. Tuteur, taken in this action.

8. Attached hereto as Exhibit G are true and accurate copies of pages from the transcript of the deposition of Jarvis Kellogg, taken in this action.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 24th DAY OF JULY, 2006.

_____/s/ Paula M. Bagger_____
Paula M. Bagger

CONFIDENTIAL

Client Number: 0030716
 Client Name: Christopher Nagel
 Report Description: **Billed and Unbilled Recap of Time [3/31/2004 4:52:16 PM]**

Page 1

Date	Initials	Name/Invoice Number	Hours	Amount	Description	Matter Number	Index
01/01/1996	00718	Michael James Tuteur Invoice=239858	0.00	0.00	(Conv) Written off	030716-00100	1683911
07/16/1998			0.00	168.60			
01/01/1996	00718	Michael James Tuteur Invoice=239858	0.00	0.00	(Conv) Write up/down OR Atty sum if pre-1996	030716-00100	1634467
07/16/1998			0.00	-168.60			
01/28/1998	00734	Carole S. Schwartz Rendon Invoice=228496	1.50	352.50	Conference call with G. Berman, E. Jacks and	030716-00001	601135
03/12/1998			1.50	352.50	counsel for numerous MMT employees regarding		
					upcoming congressional hearings and recent		
					grand jury appearances		
02/05/1998	00734	Carole S. Schwartz Rendon Invoice=228496	0.20	47.00	Telephone conference with C. Nagel regarding	030716-00001	601136
03/12/1998			0.20	47.00	developments		
02/06/1998	00734	Carole S. Schwartz Rendon Invoice=228496	2.30	540.50	Telephone conference with E. Jacks; review of	030716-00001	601137
03/12/1998			2.30	540.50	documents regarding meeting scheduled for		
					2/9/96		
02/07/1998	00734	Carole S. Schwartz Rendon Invoice=228496	0.90	211.50	Telephone conference with C. Nagel regarding Q2	030716-00001	601138
03/12/1998			0.90	211.50	invoices and meeting scheduled for 2/9/96		
02/09/1998	00734	Carole S. Schwartz Rendon Invoice=228496	9.80	2,303.00	Meeting at Molten Metal regarding preparation	030716-00001	601139
03/12/1998			9.80	2,303.00	for congressional hearings with G. Berman, B.		
					Haney, V. Gatto, E. Jacks, K. Green, D. Wilson,		
					J. Coyle and M. Perry; telephone conference		
					with C. Nagel regarding same and schedules		
02/10/1998	00734	Carole S. Schwartz Rendon Invoice=228496	3.60	846.00	Telephone conference with M. Guzman regarding	030716-00001	601140
03/12/1998			3.60	846.00	statements; review of relevant documents		
					regarding congressional hearings		
02/11/1998	00734	Carole S. Schwartz Rendon Invoice=228496	13.50	3,172.50	Travel to D.C. for preparation for	030716-00001	601141
03/12/1998			13.50	3,172.50	congressional hearings; meeting with C. Nagel		
					regarding same		
02/12/1998	00734	Carole S. Schwartz Rendon Invoice=228496	10.50	2,467.50	Representation of C. Nagel at his appearance	030716-00001	601142
03/12/1998			10.50	2,467.50	before the House Commerce Committee; return to		
					Boston; telephone conference with E. Jacks		
					regarding update		
04/20/1998	00734	Carole S. Schwartz Rendon Invoice=238280	2.10	493.50	Telephone conference with C. Nagel and G.	030716-00001	601143
06/24/1998			2.10	493.50	Berman regarding E. McConchie; review of		

EBG 3634

CONFIDENTIAL

Client Number: • ☐030716
Client Name: • ☐Christopher Nagel
Report Description: ☐Billed and Unbilled Recap of Time [3/31/2004 4:52:16 PM]

[illegible]

REDACTED

EBG 3635

Conflicts Investigation Report

CONFIDENTIAL

Idno: 044202
Form Number: 020577
Date Modified: 10/15/98
Record Type: CM
Client Number: 30716
Matter Number: 000002
Client Name: CHRISTOPHER NAGEL
Client Address: 28 HIGHLAND AVENUE
City: WAYLAND
State: MA
Client Telephone: (508) 324-6402
Office Code: BOSTON
Resp Attorney: GABOR GARAI
Billing Attorney: GABOR GARAI
Billing Attorney Two: EDWIN H. BAKER
Orig Attorney: GABOR GARAI
Matter Open Date: 10/13/98
Practice Area: OTHER
Desc of Matter: MATTER NAME - TAX ADVICE
TAX ADVICE

Names Searched:
Date Searched: 2/9/2004
Time: 3:39:26 PM

Record 6 Count 7

Christopher Nagel

Affiliates and Individuals Associated with Client

Opposing Party: Not Submitted

Assoc with Opposing:

Conflict Waiver: NO

Status: Closed

Image: \EB010121\012\18.tif
\EB010121\012\19.tif

Excerpts from Deposition of Carole Schwartz Rendon:
to be filed under seal pursuant to
Confidentiality Stipulation and Protective Order

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Robert Hanfling v. Epstein, Becker & Green, et. al.

Transcript of the Testimony of:

Ethan Jacks

April 12, 2006

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Cindy Berglund 1-18972

Ethan Jacks 4-12-2006

Robert Hanfling v. Epstein, Becker & Green, et. al.

<p style="text-align: right;">14</p> <p>1 company's counsel in carrying out the company's</p> <p>2 responsibilities to respond to it, I learned over time</p> <p>3 more about it.</p> <p>4 Q. And what did you learn, you know, over your time</p> <p>5 dealing with this, was the focus of the investigation</p> <p>6 or investigations?</p> <p>7 A. My recollection is that it had to do with</p> <p>8 questions involving contributions made by the company</p> <p>9 or its officers or directors, and I should point out</p> <p>10 that individuals also were asked to provide testimony,</p> <p>11 myself included.</p> <p>12 So, in other words, in addition to representing</p> <p>13 the company, I, and others, individually had to provide</p> <p>14 information and meet with the FBI.</p> <p>15 Q. So did you personally receive a subpoena directed</p> <p>16 to you?</p> <p>17 A. I am sure I did because -- and I don't remember</p> <p>18 exactly when or how, but I did have to produce personal</p> <p>19 records as well and I was represented by counsel at the</p> <p>20 time.</p> <p>21 Q. Okay. MMT, did MMT have its own counsel to</p> <p>22 represent it in the investigation matters?</p> <p>23 A. I believe it did and I believe, and this is again</p> <p>24 a long time ago, at least primary counsel was Latham</p>	<p style="text-align: right;">16</p> <p>1 A. My recollection is that, and, again, I don't know</p> <p>2 specifically what they were asked to do other than I do</p> <p>3 recall that they were asked to provide, be available</p> <p>4 for interviews and as to the number, I would hazard,</p> <p>5 this is just my recollection, somewhere between ten and</p> <p>6 twenty.</p> <p>7 Q. With respect to the individual employees, officers</p> <p>8 and directors that were required to provide</p> <p>9 information, did they have representation, do you</p> <p>10 recall, in the investigation?</p> <p>11 A. I think that there were a group of individuals</p> <p>12 who, like myself, retained personal counsel and we also</p> <p>13 retained a woman named Carole something Rendon, who I</p> <p>14 think was with Epstein Becker, I don't remember that</p> <p>15 specifically, to represent a number of folks</p> <p>16 individually except, I believe, we, the company, agreed</p> <p>17 to pay the costs of that representation up to some</p> <p>18 point or some amount, but I don't remember the details.</p> <p>19 Q. Do you think the name was Carole Schwartz Rendon?</p> <p>20 A. Yes. That's correct.</p> <p>21 Q. Do you know why Latham and Watkins didn't assume</p> <p>22 the role of representing individual officers, directors</p> <p>23 and employees in the investigation?</p> <p>24 ATTY. BAGGER: Objection to the form of the</p>
<p style="text-align: right;">15</p> <p>1 and Watkins.</p> <p>2 Q. Was there another firm also representing MMT in</p> <p>3 the investigation?</p> <p>4 A. I don't recall any other. It's possible, but I</p> <p>5 don't recall other firms.</p> <p>6 Q. Do you recall who at Latham and Watkins you would</p> <p>7 have dealt with?</p> <p>8 A. Sure. Their primary lawyer, I think I've got his</p> <p>9 name right, Roger Goldman, and also a gentleman who has</p> <p>10 gone on to a much bigger job, Michael Chertoff.</p> <p>11 Q. Now, you indicated a moment ago that you were</p> <p>12 aware that individual employees, officers, directors</p> <p>13 maybe you didn't say that, but you said individuals</p> <p>14 were required to respond directly to information</p> <p>15 requests?</p> <p>16 A. Right.</p> <p>17 Q. These were individuals that received subpoenas?</p> <p>18 A. I don't know for a fact that they -- I don't</p> <p>19 remember specifically how the individuals were</p> <p>20 individually contacted. So I don't know the specifics</p> <p>21 of that.</p> <p>22 Q. Do you recall the number or approximately the</p> <p>23 number of employees that were required to provide</p> <p>24 information?</p>	<p style="text-align: right;">17</p> <p>1 question as compound.</p> <p>2 THE WITNESS: I don't remember why and I -- I</p> <p>3 don't remember why. I can only assume now in</p> <p>4 retrospect that there was some view that if Latham was</p> <p>5 oriented to company counsel, that there would be a</p> <p>6 reason to have somebody -- you know, a different lawyer</p> <p>7 from a different law firm focused on individuals, but I</p> <p>8 don't remember the specific reason.</p> <p>9 Q. Do you recall when about -- about when, excuse me,</p> <p>10 EBG began to represent employees in the investigation?</p> <p>11 ATTY. BAGGER: Objection. Foundation.</p> <p>12 THE WITNESS: "EBG" is Epstein Becker?</p> <p>13 Q. Yes. Another definition, when I refer to "EBG,"</p> <p>14 I'm referring to the firm of Epstein, Becker and Green.</p> <p>15 A. Unfortunately, I don't remember exactly when. I</p> <p>16 assume it would have been contemporaneous with the</p> <p>17 receipt of the request for information, but I don't</p> <p>18 remember specifically when.</p> <p>19 ATTY. FLEISCHER: I'm going to mark a document.</p> <p>20 This will be one.</p> <p>21 (Exhibit 1, 8/5/97 DOCUMENT, marked for</p> <p>22 identification.)</p> <p>23</p> <p>24 Q. Okay. Mr. Jacks, I've just handed you what's been</p>

5 (Pages 14 to 17)

Ethan Jacks 4-12-2006

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18	<p>1 marked as Exhibit 1 for this deposition. Can you take</p> <p>2 a look at that, please?</p> <p>3 A. Sure.</p> <p>4 Q. Do you recognize the document?</p> <p>5 A. Not specifically, no.</p> <p>6 Q. And do you recall having received this document?</p> <p>7 A. No.</p> <p>8 Q. Does it in any way refresh your recollection as to</p> <p>9 about when EBG may have started to perform services in</p> <p>10 connection with the investigation?</p> <p>11 A. Only insofar as it's got a date of August 5, 1997</p> <p>12 and it is a bio for Carole that might suggest was the</p> <p>13 time, but other than that, no.</p> <p>14 Q. Would you have any reason to believe that it</p> <p>15 wasn't about that time that you started -- that</p> <p>16 Epstein, Becker and Green started to perform services?</p> <p>17 A. No. I have no reason to think it's any other</p> <p>18 time.</p> <p>19 Q. Okay. Do you know if you had spoken directly with</p> <p>20 Ms. Schwartz Rendon before she started to represent</p> <p>21 employees, directors or officers in connection with the</p> <p>22 investigation?</p> <p>23 A. I do remember again, in general, speaking to it's</p> <p>24 Carole, right?</p>	20	<p>1 ATTY. FLEISCHER: That's fair.</p> <p>2 Q. With respect to those employees that were</p> <p>3 represented by Epstein, Becker and Green, did MMT have</p> <p>4 a role in determining who that counsel would be?</p> <p>5 ATTY. BAGGER: Objection.</p> <p>6 Q. You may answer.</p> <p>7 A. I would say insofar as I was the general counsel,</p> <p>8 you know, among my job was to help advise the company</p> <p>9 on decisions and selections like this, yes. You know,</p> <p>10 the corporation rarely speak with one voice. They</p> <p>11 speak with officers and directors making decisions</p> <p>12 about things. So indirectly, yes, but it would have</p> <p>13 been sort of through me and I assume our outside</p> <p>14 counsel, Latham and Watkins, would have been advising</p> <p>15 me on these decisions.</p> <p>16 Q. Those individuals that were represented by EBG in</p> <p>17 the investigations, did they have much input, do you</p> <p>18 recall, in the selection of their attorney?</p> <p>19 ATTY. BAGGER: Objection.</p> <p>20 THE WITNESS: I honestly don't remember the</p> <p>21 details. I think our decision was to try to offer, not</p> <p>22 require, but offer Carole as somebody who could</p> <p>23 represent them if they chose, but to not in any way</p> <p>24 mandate that.</p>
19	<p>1 Q. Yes, Carole.</p> <p>2 A. But I did not -- my recollection is I did not know</p> <p>3 Carole prior to having heard her name and I don't</p> <p>4 remember, frankly, how I heard her name. But I didn't</p> <p>5 have any dealings with her prior to discussing this</p> <p>6 matter with her.</p> <p>7 Q. Did you discuss the representation with her</p> <p>8 though, before she was, before she actually started to</p> <p>9 provide services?</p> <p>10 A. Again, I don't have a specific recollection, but</p> <p>11 given my job, I assume I would have been an important</p> <p>12 person in making the decision to hire her. So I assume</p> <p>13 I spoke to her about the matter in advance of her</p> <p>14 taking on the matter.</p> <p>15 Q. Did MMT determine who was going to represent the</p> <p>16 individuals, officers or directors or have a role in</p> <p>17 that?</p> <p>18 ATTY. BAGGER: Objection. Again, compound. I</p> <p>19 really think, Rob, that the directors, officers and</p> <p>20 employees of the company are a fairly diverse group of</p> <p>21 people and there has already been testimony that they</p> <p>22 were represented by different people. So I think</p> <p>23 lumping them together in all these questions is</p> <p>24 problematic.</p>	21	<p>1 Q. Do you recall thinking back to the period whether</p> <p>2 or not it was important to MMT that those employees</p> <p>3 that were represented by Carole Schwartz Rendon in fact</p> <p>4 all be represented by the same counsel?</p> <p>5 A. I don't know if that was a driving factor. I</p> <p>6 think the driving factor was more to see if we could</p> <p>7 simply be helpful to people and to fray some of the</p> <p>8 costs and anxiety by saying here is a lawyer that you</p> <p>9 might use if you choose to.</p> <p>10 ATTY. FLEISCHER: I'm going to mark another</p> <p>11 document. This is number 2.</p> <p>12 (Exhibit 2, DOCUMENTS, marked for identification.)</p> <p>13</p> <p>14 Q. Mr. Jacks; you were just handed a document, what's</p> <p>15 been marked as Exhibit 2. Can you please take a look</p> <p>16 at that document? Do you recall ever seeing this</p> <p>17 document before?</p> <p>18 A. I don't remember specifically seeing this</p> <p>19 document.</p> <p>20 Q. Okay. You are familiar with the law firm of Cohn</p> <p>21 and Kelakos, LLP?</p> <p>22 A. In deed.</p> <p>23 Q. And who were they?</p> <p>24 A. They were, and I'm not sure if they still are, a</p>

6 (Pages 18 to 21)

Ethan Jacks 4-12-2006

Robert Hanfling v. Epstein, Becker & Green, et. al.

<p style="text-align: right;">30</p> <p>1 A. Wilmer, it's now Wilmer Hale.</p> <p>2 Q. Just for the record, I didn't prepare this</p> <p>3 document.</p> <p>4 A. Evidently.</p> <p>5 Q. Not that my spelling is very good.</p> <p>6 So Hale and Dorr, as it was then known,</p> <p>7 represented Bill Haney in the investigations?</p> <p>8 A. Well, Karen Green.</p> <p>9 Q. But with the firm?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know who paid the bills for Hale and Dorr</p> <p>12 to represent Bill Haney?</p> <p>13 A. I don't recall. I don't know.</p> <p>14 Q. Do you know --</p> <p>15 A. My recollection is that I paid my bills for my,</p> <p>16 yes, for Dennis Saylor. So I would assume, but I can't</p> <p>17 prove, that the company -- I would assume if I paid,</p> <p>18 therefore other people paid. But I don't know that for</p> <p>19 a fact.</p> <p>20 Q. Do you recall reviewing bills for approval from</p> <p>21 attorneys involved in this investigation?</p> <p>22 A. Not specifically, no.</p> <p>23 Q. Now, Ben Downs, I think you did reference him a</p> <p>24 little while ago?</p>	<p style="text-align: right;">32</p> <p>1 Q. Vic Gatto, who is he?</p> <p>2 A. Vic was a vice president at Molten Metal. I think</p> <p>3 his primary area of work was government sales, if you</p> <p>4 will, as contrasted to commercial sales.</p> <p>5 Q. And do you recall if Vic had received a subpoena</p> <p>6 to testify in the investigations?</p> <p>7 A. Again, same answer. I don't know the specifics.</p> <p>8 Q. Do you recall any dealings with his attorneys</p> <p>9 at --</p> <p>10 A. I do recall speaking to, I think it's pronounced</p> <p>11 Touhey, Mark Touhey at Vinson and Elkins, but I don't</p> <p>12 remember specific times or places, but I do remember</p> <p>13 speaking to Mark.</p> <p>14 Q. What about William, is that Laller?</p> <p>15 A. Yes. That name I don't recall.</p> <p>16 Q. Okay.</p> <p>17 ATTY. FLEISCHER: I'm now marking another</p> <p>18 document.</p> <p>19 (Exhibit 4, DOCUMENT, marked for identification.)</p> <p>20</p> <p>21 THE WITNESS: Is it okay to take a bathroom break?</p> <p>22 ATTY. FLEISCHER: Yes. We'll go off the record.</p> <p>23</p> <p>24 (Recess taken.)</p>
<p style="text-align: right;">31</p> <p>1 A. He was the CFO, again, up until the filing.</p> <p>2 Q. And did Ben receive -- to the best of your</p> <p>3 recollection, did Ben receive a subpoena in the</p> <p>4 investigations?</p> <p>5 A. Again, I can't recall and I'm not sure I ever knew</p> <p>6 what happened to individuals besides myself.</p> <p>7 Q. So do you happen to know if he was represented by</p> <p>8 Michael Kendel?</p> <p>9 A. Now having seen the name, my recollection is that</p> <p>10 that was Ben's individual lawyer, yes.</p> <p>11 Q. And that was a firm that was then known as</p> <p>12 McDermott, Wills and Emery?</p> <p>13 A. Well, it was actually McDermott Will and it still</p> <p>14 is McDermott, Will and Emery and for the record, I used</p> <p>15 to be a partner there. It's a small town.</p> <p>16 Q. Is there anything on this list that is not spelled</p> <p>17 wrong?</p> <p>18 ATTY. BAGGER: Duncan and Allen.</p> <p>19 Q. I don't know who prepared this document. Just for</p> <p>20 the record, this document was produced by the counsel</p> <p>21 for Steven Gray in response to a subpoena issued by</p> <p>22 Defendant's counsel in this litigation. I should have</p> <p>23 mentioned that before I handed it to you.</p> <p>24 A. Okay.</p>	<p style="text-align: right;">33</p> <p>1 ATTY. FLEISCHER: Back on the record.</p> <p>2 Q. I've just handed you what the court reporter has</p> <p>3 marked as Exhibit 4. Again, I'll disclose to you this</p> <p>4 was a document produced by the firm Reimer Braunstein</p> <p>5 in --</p> <p>6 A. Reimer. There is no rhyme or reason to the names,</p> <p>7 is there?</p> <p>8 Q. -- Reimer and Braunstein in response to the</p> <p>9 document subpoena issued by Defendant's counsel in this</p> <p>10 case. I would ask you take a look at that for a</p> <p>11 moment.</p> <p>12 A. I'm sorry, what was the preface you gave to this?</p> <p>13 Q. That the document was produced by the firm Reimer</p> <p>14 and Braunstein in response to a document subpoena in</p> <p>15 this litigation, the instant litigation.</p> <p>16 A. Okay.</p> <p>17 Q. My question on this document for you relates to</p> <p>18 the "re" on the first page and the subject on the</p> <p>19 second page. There is a reference there to joint</p> <p>20 defense, joint defense conference call. Do you see</p> <p>21 that?</p> <p>22 A. I do.</p> <p>23 Q. Can you see that on both documents?</p> <p>24 A. Yes.</p>

9 (Pages 30 to 33)

Ethan Jacks 4-12-2006

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34	<p>1 Q. Do you recall whether or not there was a joint</p> <p>2 defense agreement among the various counsel that are</p> <p>3 listed on these documents?</p> <p>4 A. Well, first of all, I don't -- I don't recall this</p> <p>5 document to start with that.</p> <p>6 Q. I'm not asking if you recall the document. I'm</p> <p>7 asking whether you recall a joint defense?</p> <p>8 A. I do remember the discussion of joint defense</p> <p>9 agreement and I do believe there was a joint defense</p> <p>10 agreement in effect. But I could not tell you, I</p> <p>11 assume -- I know the company was party to a joint</p> <p>12 defense agreement, but I couldn't tell you specifically</p> <p>13 with who.</p> <p>14 Q. Do you know or do you have an idea as to whether</p> <p>15 Epstein Becker was a party to the joint defense</p> <p>16 agreement?</p> <p>17 ATTY. BAGGER: Objection.</p> <p>18 THE WITNESS: Again, I can't recall literally the</p> <p>19 form or substance of any joint defense agreement. I do</p> <p>20 recall discussions not infrequently about the reason,</p> <p>21 the wisdom for joint defense agreements and I have a</p> <p>22 vague recollection of having signed one, but I can't</p> <p>23 remember the time, place or specifics of it.</p> <p>24 Q. And, again, do you have, and I know you don't know</p>	36	<p>1 defense.</p> <p>2 Q. Do you recall at the time, and, again, back during</p> <p>3 the investigations, whether you had an expectation that</p> <p>4 discussions that occurred among the parties to the</p> <p>5 joint defense agreement, whether discussions would have</p> <p>6 been subject to attorney/client privilege?</p> <p>7 A. Again, my non-litigator's understanding which is</p> <p>8 weak by the way.</p> <p>9 Q. Whatever your -- I'm asking what your</p> <p>10 understanding was?</p> <p>11 A. It's that I think that's part of the point, that</p> <p>12 you get to protect either under the attorney/client</p> <p>13 privilege or some other doctrine, the details of those</p> <p>14 discussions. That that's part of the point.</p> <p>15 Q. And, therefore, would it have been your</p> <p>16 expectation that those discussions would have been kept</p> <p>17 confidential?</p> <p>18 A. Within whatever the bounds of that doctrine are,</p> <p>19 which I couldn't tell you because I'm not an expert.</p> <p>20 Q. Okay.</p> <p>21 ATTY. FLEISCHER: We'll mark another document.</p> <p>22 (Exhibit 5, DOCUMENT, marked for identification.)</p> <p>23</p> <p>24 Q. Mr. Jacks, again, just to let you know where this</p>
35	<p>1 for certain, but do you recall whether Epstein, Becker</p> <p>2 and Green may have been a party to a joint defense</p> <p>3 agreement, whether written or implicit?</p> <p>4 ATTY. BAGGER: Objection.</p> <p>5 THE WITNESS: Other than the logic of them being a</p> <p>6 party to it, but, no. I can't remember specifics about</p> <p>7 whether they were or weren't.</p> <p>8 Q. With respect to the logic, can you articulate what</p> <p>9 you mean by that?</p> <p>10 A. My recollection generally is that parties that</p> <p>11 have a common defense or common view of a case have the</p> <p>12 right to establish a joint, I'm not an expert and I'm</p> <p>13 not a litigator by the way, have a right and</p> <p>14 opportunity to create a joint defense relationship</p> <p>15 which can be written or not written and that those were</p> <p>16 discussed at the time, but that's all I remember.</p> <p>17 Q. Do you remember participating in conferences that</p> <p>18 were with other counsel in the context of joint defense</p> <p>19 of the investigations?</p> <p>20 A. Generally, I recall that there was a joint defense</p> <p>21 agreement in effect. I don't remember specifically who</p> <p>22 was or wasn't a party to it, and, again, almost by</p> <p>23 deduction that conversations among the counsel who were</p> <p>24 party to it would have been covered by the joint</p>	37	<p>1 document came from. This document was also produced by</p> <p>2 Steven Gray's counsel in response to a document</p> <p>3 subpoena issued by defense counsel in the instant</p> <p>4 litigation.</p> <p>5 I would ask you to take a look at that, if you</p> <p>6 don't mind?</p> <p>7 A. Sure. It's a walk down memory lane here.</p> <p>8 Q. You've read the document?</p> <p>9 A. Yes. Scanned it.</p> <p>10 Q. Do you recall ever seeing this document before?</p> <p>11 A. I know that it was directed to, me but I don't</p> <p>12 have a current recollection of having read or received</p> <p>13 it.</p> <p>14 Q. I know you just reviewed the contents of the</p> <p>15 document while sitting here.</p> <p>16 A. I skimmed it.</p> <p>17 Q. Do you have a general recollection of the matters</p> <p>18 that are reported in this document?</p> <p>19 A. Again, now having read this and having had my</p> <p>20 memory refreshed a little bit, I do remember. I would</p> <p>21 say I have some form of recollection of most of what's</p> <p>22 discussed in here.</p> <p>23 Q. And do you recall having any discussions with</p> <p>24 Carole Schwartz Rendon about the information that is</p>

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<p style="text-align: right;">38</p> <p>1 reported in this document?</p> <p>2 A. I don't have any current recollection of</p> <p>3 discussing specifically anything with Carole given the</p> <p>4 amount of time that has passed.</p> <p>5 Q. Do you recall whether or not you had reviewed this</p> <p>6 document in any draft form?</p> <p>7 A. No. I don't recall having seen a draft or final</p> <p>8 other than the fact I see it was directed to me.</p> <p>9 Q. Do you have any reason to think you might not have</p> <p>10 received this document?</p> <p>11 A. I have no reason to think that I did or didn't,</p> <p>12 but I'm assuming since it was directed to me that I</p> <p>13 did.</p> <p>14 ATTY. FLEISCHER: I'm going to quickly mark one</p> <p>15 additional document here.</p> <p>16 (Exhibit 6, DOCUMENTS, marked for identification.)</p> <p>17</p> <p>18 Q. I'm handing you another document. It's marked 6.</p> <p>19 Same source as the other document, Mr. Jacks, from</p> <p>20 Mr. Gray's counsel.</p> <p>21 ATTY. BAGGER: Are you sure?</p> <p>22 ATTY. FLEISCHER: Yes. It came in the same</p> <p>23 package.</p> <p>24 ATTY. BAGGER: It's got a different set of Bates</p>	<p style="text-align: right;">40</p> <p>1 Q. Well, it's stamped "draft". Do you agree that</p> <p>2 it's stamped "draft"?</p> <p>3 A. Yes. I see the word "draft" stamped.</p> <p>4 Q. That appears on each page, do you agree with that?</p> <p>5 A. Having now carefully flipped through the pages, I</p> <p>6 agree with you.</p> <p>7 Q. Do you recall whether or not you may have reviewed</p> <p>8 this document in draft form before it was issued in</p> <p>9 final form?</p> <p>10 A. No, I don't.</p> <p>11 Q. You don't recall whether or not you may have</p> <p>12 contributed to the preparation of the document?</p> <p>13 A. I have no specific recollection of this document</p> <p>14 and, thus, no specific recollection or even indirect</p> <p>15 recollection of having read or reviewed or commented</p> <p>16 upon this document.</p> <p>17 Q. Other than a specific recollection, do you have a</p> <p>18 general recollection?</p> <p>19 A. I don't.</p> <p>20 ATTY. BAGGER: Objection.</p> <p>21 THE WITNESS: I don't recall it specifically or</p> <p>22 generally, except I note that it was directed to me and</p> <p>23 Gene Berman with copies to various counsel.</p> <p>24 Q. And the counsel copied on that, those are other</p>
<p style="text-align: right;">39</p> <p>1 markings on it.</p> <p>2 ATTY. FLEISCHER: I pulled it out of the material</p> <p>3 that Sutton gave us the other day.</p> <p>4 ATTY. BAGGER: Okay. It looks very much like the</p> <p>5 one you produced to me quite a while ago and it's got a</p> <p>6 different Bates labeling system.</p> <p>7 ATTY. FLEISCHER: It's not my Bates labeling</p> <p>8 system.</p> <p>9 ATTY. BAGGER: Okay.</p> <p>10 Q. Okay. Let me ask you what you notice is</p> <p>11 immediately the major difference between these</p> <p>12 documents, as far as you can tell?</p> <p>13 ATTY. BAGGER: Objection.</p> <p>14 Q. What is different about the document number 6 from</p> <p>15 5 that's obvious to you?</p> <p>16 ATTY. BAGGER: Objection.</p> <p>17 THE WITNESS: Is this like a children's game, what</p> <p>18 is different about this picture?</p> <p>19 Q. Right.</p> <p>20 A. Maybe I'm just being tired this morning, but it's</p> <p>21 not jumping out at me.</p> <p>22 Q. I note that this document is titled "draft".</p> <p>23 A. I'm sorry. Thank you. I should have seen that.</p> <p>24 ATTY. BAGGER: Objection to it's titled "draft".</p>	<p style="text-align: right;">41</p> <p>1 counsel involved in the investigations?</p> <p>2 A. Well, again, based on having seen Exhibit 3, there</p> <p>3 seems to be a correlation there, yes.</p> <p>4 Q. I'll have you turn to Page 7.</p> <p>5 A. Which one?</p> <p>6 Q. Page 7 of Exhibit 5.</p> <p>7 A. Okay.</p> <p>8 Q. And you'll note at the top of the page, these</p> <p>9 actually appear under Section V, Concerns, which runs</p> <p>10 over from the prior page.</p> <p>11 A. Okay.</p> <p>12 Q. I just want to just ask you some questions about</p> <p>13 these numbered concerns.</p> <p>14 A. Okay.</p> <p>15 Q. Take a look at the first numbered concern. I'll</p> <p>16 read it, "Vic Gatto, G-A-T-T-O and Clyde Frank had an</p> <p>17 exceptionally close relationship. Clyde may have gone</p> <p>18 over the line in promising to deliver money to MMT</p> <p>19 without appropriate documented authorization for such</p> <p>20 promises." Who was Clyde Frank?</p> <p>21 A. By the way, it's -- I'm sorry I keep doing this to</p> <p>22 you, it's pronounced Gatto, at least that's how I</p> <p>23 recall it being pronounced.</p> <p>24 I believe Clyde Frank was a Department of Energy</p>

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42	<p>1 employee. I don't recall his specific title.</p> <p>2 Q. Do you know his connection to MMT at the time?</p> <p>3 ATTY. BAGGER: Clyde Frank?</p> <p>4 Q. Clyde Frank, yes.</p> <p>5 A. I believe he was one of the folks and probably one</p> <p>6 of the more senior folks that we interacted with, I</p> <p>7 don't know specifically what his title or division was</p> <p>8 at the Department of Energy, but just that he worked at</p> <p>9 Department of Energy and that he was interested in our</p> <p>10 technology and probably in the group of folks that were</p> <p>11 responsible for reviewing our request for government</p> <p>12 contracts through the DOE.</p> <p>13 Q. Do you have any recollection of how this issue</p> <p>14 outlined in paragraph, the first numbered paragraph</p> <p>15 here, how that was resolved?</p> <p>16 ATTY. BAGGER: Objection.</p> <p>17 THE WITNESS: No, I don't. I don't even know what</p> <p>18 your question is exactly.</p> <p>19 Q. Do you know if anything ever became of this issue</p> <p>20 beyond this memorandum?</p> <p>21 A. The "issue" being what exactly?</p> <p>22 Q. The issue being whether or not Clyde went over the</p> <p>23 line in promising to deliver money to MMT without</p> <p>24 appropriate documenting authorization?</p>	44	<p>1 regarding the points raised in number 2?</p> <p>2 A. No.</p> <p>3 Q. Do you recall ever having a discussion with Carole</p> <p>4 Schwartz Rendon about the matters raised in number 2?</p> <p>5 A. Nope.</p> <p>6 Q. Okay. Going to number 3, I think you've read</p> <p>7 number 3 already?</p> <p>8 A. Yes.</p> <p>9 Q. Do you recall having any discussions with any</p> <p>10 other MMT officers, directors or employees regarding</p> <p>11 issues raised in number 3?</p> <p>12 A. I have no current recollection of that, no.</p> <p>13 Q. Do you have any recollection of discussing that</p> <p>14 matter with any of the attorneys involved in the</p> <p>15 investigations?</p> <p>16 A. No specific recollection. I can see, having read</p> <p>17 this memo, that the subject of campaign contributions</p> <p>18 was one of the focal points of the investigation and</p> <p>19 from having read this, it appears that that was not a</p> <p>20 problem. But I have no specific recollection of having</p> <p>21 discussed it.</p> <p>22 Q. And take a look now at number 4 and number 5. Let</p> <p>23 me know when you've finished reading those.</p> <p>24 A. Okay.</p>
43	<p>1 A. I don't remember specifically how that issue such</p> <p>2 as it was or at least characterized in this document</p> <p>3 was resolved. Having reread some of these documents to</p> <p>4 get back to our original case, there was clearly</p> <p>5 some -- within the investigation there was a DOE piece</p> <p>6 and my recollection is that after the investigations</p> <p>7 were over, there was no action. I don't remember any</p> <p>8 specific action taken. So I assume that it was</p> <p>9 resolved relevant to the parties' satisfaction.</p> <p>10 Q. Do you recall having any discussions with other</p> <p>11 MMT officers or directors or counsel regarding the</p> <p>12 issue that is raised in this first point?</p> <p>13 A. No. No recollection of that.</p> <p>14 Q. I'll have you read quickly number 2 to yourself</p> <p>15 and then number 3.</p> <p>16 A. Okay.</p> <p>17 Q. Just tell me when you are all set.</p> <p>18 A. Okay.</p> <p>19 Q. Do you recall having any discussions with other</p> <p>20 MMT officers, directors or employees regarding the</p> <p>21 issue raised in Point 2?</p> <p>22 A. Absolutely not.</p> <p>23 Q. Do you recall having any discussions with any of</p> <p>24 the other attorneys involved in the investigations</p>	45	<p>1 Q. With respect to Point 4 there on Page 7, do you</p> <p>2 recall having any discussions with other officers or</p> <p>3 directors or employees of MMT regarding the issue</p> <p>4 raised in Point 4?</p> <p>5 ATTY. BAGGER: Objection. Do you mean the subject</p> <p>6 matter or the fact that it was flagged in this memo?</p> <p>7 ATTY. FLEISCHER: No. The subject matter.</p> <p>8 THE WITNESS: No.</p> <p>9 Q. Do you recall ever having any discussions with any</p> <p>10 of the attorneys involved in the investigations</p> <p>11 regarding the substance of the matter raised in Point</p> <p>12 4?</p> <p>13 A. I don't have a recollection of that, no.</p> <p>14 Q. With respect to Point 5, and again with respect to</p> <p>15 the substance of the matter raised in Point 5, before I</p> <p>16 go on -- strike that.</p> <p>17 Do you recall ever having any discussion with</p> <p>18 Carole Schwartz Rendon about the substance of the</p> <p>19 matter raised in Point 4?</p> <p>20 A. No. I don't have a recollection of that.</p> <p>21 Q. With respect to Point 5, do you recall having any</p> <p>22 discussion with any other MMT officers, directors or</p> <p>23 employees regarding that matter?</p> <p>24 A. I have no specific recollection of that. That's</p>

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<p style="text-align: right;">46</p> <p>1 getting into, frankly, very technical areas that I</p> <p>2 don't think were within my scope of responsibilities.</p> <p>3 Q. Do you have any general recollection?</p> <p>4 A. No. I remember now having read this document, I</p> <p>5 had forgotten even what the acronym – the PRDA</p> <p>6 acronym, but it was then known as, it was pronounced</p> <p>7 the "PRDA" and that's what we called it and that was</p> <p>8 one of the government contracts we had and my</p> <p>9 recollection is that it was extended once or twice. So</p> <p>10 it was a significant you know – significant to the</p> <p>11 company and I don't recall any problems with the</p> <p>12 administration of it.</p> <p>13 Q. Do you recall what PRDA stands for?</p> <p>14 A. I don't. Just that we called it the "PRDA", but</p> <p>15 that's just the phonetic pronunciation of the acronym.</p> <p>16 Q. Can you describe what the PRDA was?</p> <p>17 A. I can't specifically because, again, that was not</p> <p>18 my area of responsibility or expertise. But I believe</p> <p>19 that was the – that was the primary government</p> <p>20 contract with the Department of Energy that we had at</p> <p>21 least in the beginning and I think it stayed in effect</p> <p>22 for several years.</p> <p>23 Q. Okay. And, again, you don't recall ever having</p> <p>24 any discussion with Carole Schwartz Rendon about the</p>	<p style="text-align: right;">48</p> <p>1 ATTY. FLEISCHER: The first page.</p> <p>2 THE WITNESS: By the face of it, it's a letter</p> <p>3 dated April 7, 1998 to Carole Rendon from me in my</p> <p>4 capacity as general counsel regarding Rhonda Walker.</p> <p>5 Q. Does that look like your signature on the bottom?</p> <p>6 A. Yes.</p> <p>7 Q. Who was Rhonda Walker?</p> <p>8 A. Rhonda was an employee who worked in the, as I</p> <p>9 eluded to earlier, the government side, government</p> <p>10 sales part of our business.</p> <p>11 Q. And do you recall having sent this letter to</p> <p>12 Ms. Rendon?</p> <p>13 A. I don't have any current recollection of it, no.</p> <p>14 Q. So do you have any recollection of why you would</p> <p>15 have put the joint defense document attorney/client</p> <p>16 privilege label on the top?</p> <p>17 A. Other than by logic, that there was a joint</p> <p>18 defense agreement in effect and that one was meant to</p> <p>19 legend correspondence if one was in effect.</p> <p>20 Q. The attachment, again, that's a document that is</p> <p>21 stamped with the word "draft" on each page?</p> <p>22 A. Right.</p> <p>23 Q. Do you recall – this appears to be a draft</p> <p>24 proffer?</p>
<p style="text-align: right;">47</p> <p>1 substance of the matter raised in Point 5?</p> <p>2 A. I don't recall that, no.</p> <p>3 Q. Okay.</p> <p>4 A. Again, I'll point out, this is now, you know,</p> <p>5 coming up on nine years ago.</p> <p>6 Q. Nine years. I don't mean to swamp you with paper</p> <p>7 here.</p> <p>8 ATTY. FLEISCHER: Off the record.</p> <p>9</p> <p>10 (Recess taken.)</p> <p>11</p> <p>12 ATTY. FLEISCHER: Back on the record. Can you</p> <p>13 mark this as 7, please.</p> <p>14 (Exhibit 7, 4/7/98 LETTER, marked for</p> <p>15 identification.)</p> <p>16</p> <p>17 Q. I've handed you a document that's been marked as</p> <p>18 Exhibit 7. I'll ask you to take a look at that and the</p> <p>19 attachment, as well.</p> <p>20 A. Okay.</p> <p>21 Q. The first page, can you identify that document,</p> <p>22 please?</p> <p>23 ATTY. BAGGER: The entire document or just the</p> <p>24 first page?</p>	<p style="text-align: right;">49</p> <p>1 A. Again, I'm not an expert in litigation generally</p> <p>2 or proffers inspecific, but I do see that word here,</p> <p>3 yes.</p> <p>4 Q. And do you recall if you had any involvement in</p> <p>5 the preparation of this document?</p> <p>6 A. I don't have any recollection of having prepared</p> <p>7 this document.</p> <p>8 Q. Do you recall whether you had any discussions with</p> <p>9 Carole Schwartz Rendon regarding the substance of a</p> <p>10 proffer to be provided regarding Ms. Walker?</p> <p>11 A. I have no present recollection of it other than as</p> <p>12 I read it for the – read it now in front of me that</p> <p>13 there was a, you know, the letter says that I consent</p> <p>14 to providing information regarding Rhonda Walker's</p> <p>15 severance agreement in connection with a request from</p> <p>16 that Campaign Finance Task force.</p> <p>17 Q. But you don't recall discussing the substance of</p> <p>18 this with Ms. Rendon?</p> <p>19 A. As I said, I don't think I recall any specific</p> <p>20 discussions with Carole Rendon ever and that's not</p> <p>21 because they didn't happen. I just don't remember</p> <p>22 them.</p> <p>23 Q. You are not saying you didn't have discussions?</p> <p>24 A. I just don't remember.</p>

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<p style="text-align: right;">54</p> <p>1 Q. Again, I'm not an expert on Title 7.</p> <p>2 A. Well, having read something earlier today, it</p> <p>3 looks like it was in Exhibit 7, where there is a</p> <p>4 discussion about her having brought -- I think there's</p> <p>5 a discussion about her having bought or threatened to</p> <p>6 bring a Title 7 claim against Molten Metal.</p> <p>7 Q. Do you recall whether or not there was a</p> <p>8 settlement reached with Ms. Walker?</p> <p>9 A. Again, having read this document which talks about</p> <p>10 a settlement, yes. I have a general recollection of</p> <p>11 having reached a settlement with her about any claim</p> <p>12 she might have in connection with her employment by</p> <p>13 Molten Metal.</p> <p>14 Q. Do you recall any of the terms of the settlement</p> <p>15 with her?</p> <p>16 A. I don't remember the details other than again</p> <p>17 having read in this document some reference to a</p> <p>18 payment, a severance payment and picking up her fees</p> <p>19 and letting her retain some company property, fax</p> <p>20 machines, and computers. But, again, that's having</p> <p>21 been refreshed by this document right in front of me.</p> <p>22 ATTY. BAGGER: I want the record to reflect that</p> <p>23 Mr. Jacks is looking at what has been marked as Exhibit</p> <p>24 7 in this deposition.</p>	<p style="text-align: right;">56</p> <p>1 Q. Do you know if she, in fact, retained counsel to</p> <p>2 represent her in the investigations?</p> <p>3 A. Again, maybe it's just based on what I saw today.</p> <p>4 I thought it was Carole Rendon.</p> <p>5 Q. *Okay. Now, as general counsel, did you have</p> <p>6 responsibilities for oversight of the payment to the</p> <p>7 various law firms that provided services to MMT?</p> <p>8 ATTY. BAGGER: Could you read that back.</p> <p>9</p> <p>10 (*Question read back.)</p> <p>11</p> <p>12 THE WITNESS: I would say in general, yes.</p> <p>13 Although, that would apply to the firms that were</p> <p>14 providing work of a general corporate nature, if you</p> <p>15 will. So if, for example, there was a regulatory</p> <p>16 matter that Gene Berman was responsible for, then it's</p> <p>17 possible, in fact, probable that those bills would get</p> <p>18 reviewed by him. If it was an employment matter, it's</p> <p>19 possible that it was reviewed and approved by somebody</p> <p>20 in HR. But for general corporate, yes.</p> <p>21 By the way, I just remembered this going back to</p> <p>22 your questions about who I reported to. At some point</p> <p>23 I think after Ben Downs left, I think I reported to</p> <p>24 Gene Berman for the balance of my time at MMT. So I</p>
<p style="text-align: right;">55</p> <p>1 Q. Do you have any recollection of whether, as a</p> <p>2 condition of the settlement, Ms. Walker would have been</p> <p>3 required to retain Epstein, Becker and Green to</p> <p>4 represent her in the investigations?</p> <p>5 ATTY. BAGGER: Objection. Foundation.</p> <p>6 THE WITNESS: No. I don't have a recollection to</p> <p>7 that effect.</p> <p>8 Q. Do you have a general recollection to that effect?</p> <p>9 ATTY. BAGGER: Objection. Foundation.</p> <p>10 THE WITNESS: No.</p> <p>11 Q. Do you know whether or not Ms. Walker was</p> <p>12 subpoenaed in the investigations?</p> <p>13 A. Well, I have a recollection.</p> <p>14 Q. Regardless of the documents, do you have a</p> <p>15 recollection?</p> <p>16 ATTY. BAGGER: Objection. What is the question</p> <p>17 now?</p> <p>18 ATTY. FLEISCHER: Does he have a recollection of</p> <p>19 whether Ms. Walker was subpoenaed in the</p> <p>20 investigations?</p> <p>21 ATTY. BAGGER: Okay.</p> <p>22 THE WITNESS: I do have a recollection. Although,</p> <p>23 it could have been stimulated by something I saw today.</p> <p>24 But I do have a recollection that she was, yes.</p>	<p style="text-align: right;">57</p> <p>1 just recalled that.</p> <p>2 Q. Okay.</p> <p>3 ATTY. FLEISCHER: Mark this.</p> <p>4 (Exhibit 9, DOCUMENT, marked for identification.)</p> <p>5</p> <p>6 Q. You have just been handed what's been marked as</p> <p>7 Exhibit 9. I would ask you to take a look at that,</p> <p>8 please.</p> <p>9 A. Okay.</p> <p>10 Q. Do you recall this document?</p> <p>11 A. I don't recall this document and now just having</p> <p>12 read it, I'm confused by it.</p> <p>13 Q. How are you confused by it?</p> <p>14 A. It says I'm the author and then in the text it</p> <p>15 says, "Ethan and I," suggesting I'm not the author or</p> <p>16 I'm not the only author. So I find that confusing, but</p> <p>17 I don't remember the document specifically.</p> <p>18 Q. Would this have been a customary way of</p> <p>19 communicating with Gene, a memo of this form?</p> <p>20 A. Well, I'm not -- I'm not even sure. It's also</p> <p>21 copying Gordon Bitter.</p> <p>22 Q. Who is Gordon Bitter?</p> <p>23 A. Gordon Bitter was the I'll call him, I think he</p> <p>24 was effectively, if not in fact, the CEO of Molten</p>

15 (Pages 54 to 57)

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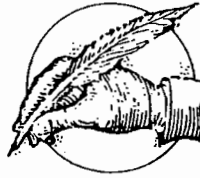
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66	<p>1 in order here. I'll ask you about each one.</p> <p>2 A. Sure.</p> <p>3 Q. Exhibit 12, take a look at that one.</p> <p>4 A. Okay.</p> <p>5 Q. Do you recall having reviewed or received this</p> <p>6 document ever?</p> <p>7 A. By "this document," you mean what?</p> <p>8 Q. Any of the collection of documents?</p> <p>9 ATTY. BAGGER: Any portion of it?</p> <p>10 Q. Yes, any portion at all?</p> <p>11 A. Again, I have no current recollection of it. I</p> <p>12 see that my name is referred to in it.</p> <p>13 Q. Where do you see your name referred to?</p> <p>14 A. I see in some of the entries on the second page</p> <p>15 the time entries by Carole Rendon, referring to</p> <p>16 conversations with me having to do with Rhonda Walker.</p> <p>17 Q. Do you recall discussing the Rhonda Walker matter</p> <p>18 with Carole Schwartz Rendon?</p> <p>19 A. Not specifically, no.</p> <p>20 Q. Take a look at the third to last page in the group</p> <p>21 and take a look in there, specifically at the detail of</p> <p>22 the time entries for April 20, 1998.</p> <p>23 A. I'm sorry, is this the same page?</p> <p>24 Q. No. I meant to say the third page from the end.</p>	68	<p>1 ATTY. BAGGER: Are you asking whether he recalls</p> <p>2 seeing any portion of the --</p> <p>3 ATTY. FLEISCHER: Any portion of Exhibit 13, any</p> <p>4 of the pages contained within Exhibit 13.</p> <p>5 THE WITNESS: I don't have any present</p> <p>6 recollection of having received these. I see that my</p> <p>7 name is referred to in some of the time entries.</p> <p>8 Q. Can you kind of point out where you see those?</p> <p>9 ATTY. BAGGER: Where he sees his name?</p> <p>10 ATTY. FLEISCHER: Yes.</p> <p>11 THE WITNESS: It is pattern recognition. I see it</p> <p>12 on --</p> <p>13 Q. Let me strike the question.</p> <p>14 The second page of the letter to Gene Berman from</p> <p>15 Carole Schwartz Rendon, do you recall ever having seen</p> <p>16 that document?</p> <p>17 A. Again, I have no present recollection of having</p> <p>18 seen this.</p> <p>19 Q. That goes for all the pages attached?</p> <p>20 A. Yes, it does.</p> <p>21 Q. Okay. I won't ask you anymore questions on that.</p> <p>22 And take a look at the document that is marked</p> <p>23 Exhibit 14.</p> <p>24 A. Okay.</p>
67	<p>1 ATTY. BAGGER: Just so we're all on the same page,</p> <p>2 is this the invoice that says Christopher Nagel</p> <p>3 June 24, 1998?</p> <p>4 ATTY. FLEISCHER: That's correct.</p> <p>5 THE WITNESS: The question again?</p> <p>6 Q. I hadn't asked the question. I would ask you to</p> <p>7 take a look at the detail and time entry for April 20,</p> <p>8 1998.</p> <p>9 A. Right.</p> <p>10 Q. Do you recall, I don't know if this refreshes your</p> <p>11 recollection, whether or not Carole Rendon had been in</p> <p>12 any way involved in the McConchie matter?</p> <p>13 A. From the face of this document, I see time entries</p> <p>14 indicating that she spoke to Chris Nagel and Gene</p> <p>15 Berman regarding the McConchie matter.</p> <p>16 Q. Do you have any independent recollection?</p> <p>17 A. No, I do not.</p> <p>18 Q. Okay. Like I said, we'll go in order. Go through</p> <p>19 13.</p> <p>20 A. Okay.</p> <p>21 Q. Do you recall having received any of these</p> <p>22 documents at all?</p> <p>23 A. Any of these documents?</p> <p>24 Q. The documents that are within Exhibit 13?</p>	69	<p>1 Q. Were you aware that Epstein Becker had filed a</p> <p>2 proof of claim in the MMT bankruptcy case?</p> <p>3 A. I was not aware of that, no.</p> <p>4 Q. So had you ever seen this document before?</p> <p>5 A. No not to my recollection.</p> <p>6 Q. And no one had ever asked you to review the</p> <p>7 documents -- I mean, the pages contained in the proof</p> <p>8 of claim?</p> <p>9 A. No, not to my recollection.</p> <p>10 Q. Do any of the entries, and I note that you thumbed</p> <p>11 through it, do any of those entries refresh your</p> <p>12 recollection as to discussions you may have had with</p> <p>13 Carole Schwartz Rendon independently of just having</p> <p>14 seen them in this document?</p> <p>15 A. Again, I don't remember specific discussions with</p> <p>16 Carole. I do remember the fact that she worked for us</p> <p>17 or she was retained on behalf of employees, but paid by</p> <p>18 us, "us" meaning Molten Metal, and that from seeing</p> <p>19 these time entries, it indicates that she and I had</p> <p>20 discussions about different matters during the relevant</p> <p>21 time period.</p> <p>22 Q. Okay.</p> <p>23 ATTY. FLEISCHER: That's actually all I have,</p> <p>24 Paula.</p>

18 (Pages 66 to 69)

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Transcript of the Testimony of:

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April 13, 2006

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1 recollection is the company and individuals in the
2 company did receive letters. I do not recall reviewing
3 any letter to any individual employee of the company --

4 Q. Do you --

5 A. -- other than my own.

6 Q. Do you recall reviewing any subpoena in connection
7 with the investigation to any employees of the company?

8 A. I did not.

9 Q. And did you actually testify?

10 A. I did.

11 Q. Was that under oath?

12 A. I did.

13 Q. How long were you testifying for in terms of days?

14 A. One day before the house committee, and I don't
15 recall which committee or subcommittee, and before a
16 federal grand jury.

17 Q. Do you recall the -- strike that.

18 Do you recall who represented the various, any of
19 the various employees of Molten Metal Technology that
20 had received subpoenas or letters to testify?

21 A. Yes.

22 Q. Who was that?

23 A. I can't say comprehensively I recall, but Bill

24 Haney was represented by Hale and Dorr. Karen Green, I

1 believe, was the individual. Vic Gatto was represented
2 by a guy named Touhey who is now the baseball
3 commissioner, I think it's Bill Touhey. It doesn't
4 matter, and a number of individuals in the company were
5 represented by Epstein, Becker and Green.

6 Q. Do you recall the specific attorney that
7 represented the individuals?

8 A. I don't recall her full name.

9 Q. If I said the name Carole Schwartz Rendon, would
10 that refresh your recollection?

11 A. It seemed like her name changed midway, but, yes,
12 Carole is the individual that I recall.

13 Q. Do you know why MMT's counsel, Latham and Watkins,
14 didn't represent everyone connected with MMT in
15 connection with the investigation?

16 A. Various employees had either employment agreements
17 or the company policy was that if someone was accused
18 of any wrongdoing in the course of their employment,
19 the company had agreed to reimburse those individuals
20 for obtaining counsel and in that context, individuals
21 who chose to be represented, in fact, their attorney's
22 fees were paid and that was the case with regard to the
23 individuals who were represented by Epstein, Becker and
24 Green.

1 Q. Do you know why Latham and Watkins didn't
2 represent any of those individuals?

3 A. I do not.

4 Q. Do you recall the time frame when Epstein, Becker
5 and Green first got involved in representing the
6 individuals in connection with the investigations?

7 A. The only time frame I remember is 1998 because at
8 that time, one of my responsibilities was to review
9 bills.

10 Q. Reviewing bills from who?

11 A. From various counsel. We were operating under
12 Chapter 11 and our expenditures were being reviewed by
13 the creditor's committees and we had to present to them
14 projected expenditures and document expenditures that
15 were made, including expenditures of this type which
16 were the ones that I was more familiar with for the
17 representation of individuals in the context of these
18 investigations.

19 Q. Prior to MMT's bankruptcy, did you review bills
20 for counsel, outside counsel then?

21 A. No.

22 Q. So it was really only after the bankruptcy that
23 you started to --

24 A. Let me clarify that, if I may. I did review

1 environmental. My responsibilities were for
2 environmental permitting and we had counsel in Texas or
3 counsel in Tennessee who did environmental work for us
4 and that was part of my budget and part of my
5 responsibilities. Sometime in 1998 because I was
6 involved and there were fewer people in the company, I
7 was given the responsibility of reviewing these bills,
8 as well.

9 Q. Do you recall how -- well, strike that.

10 Were you at all involved in the decision to hire
11 Epstein, Becker and Green to represent the individuals
12 in --

13 ATTY. BAGGER: Objection. Foundation.

14 Q. -- in connection with the investigation?

15 ATTY. BAGGER: Objection. Lack of foundation for
16 the question.

17 THE WITNESS: I was not involved in the decision
18 on anybody's part to hire Epstein, Becker and Green.
19 My knowledge is limited to the review of bills of
20 individuals, billings from Epstein Becker for
21 individuals who had elected, for whatever reason, to be
22 represented by Epstein Becker.

23 Q. Do you recall whether you had any discussions
24 directly with Ms. Rendon prior to her being retained by

1 party to a joint defense agreement of any form in
2 connection with the investigations? I'm not
3 questioning you on the document, by the way.

4 A. Okay. I'm not sure I have a -- I certainly don't
5 have a specific recollection of that.

6 Q. What do you recall generally then?

7 ATTY. BAGGER: About joint defense agreements?

8 ATTY. FLEISCHER: About joint defense agreements.

9 THE WITNESS: I have to say my recollection is
10 unclear on that. Just in my general experience with
11 multi-party cases, joint defense agreements are common.
12 I wouldn't be surprised if there was one, but I don't
13 recall there specifically being one.

14 ATTY. FLEISCHER: I'm going to mark this as the
15 next document here.

16 (Exhibit 3, 10/23/97 FAX TRANSMISSION, marked for
17 identification.)

18

19 Q. Mr. Berman, as you look at that document, I would
20 draw your attention to the "re".

21 ATTY. BAGGER: On the first page?

22 ATTY. FLEISCHER: Yes.

23 THE WITNESS: Okay.

24 Q. And also to the subject, the subject line on the

1 second page. I believe you've looked at that?

2 A. Yes.

3 Q. Does this refresh your recollection whether there
4 was a joint defense agreement or arrangement concerning
5 the investigations?

6 ATTY. BAGGER: Objection.

7 THE WITNESS: I think I previously testified I
8 would not have been surprised if there is one, but my
9 actually testimony is I honestly don't recall that
10 there, in fact, was one.

11 Q. And this document doesn't change your recollection
12 or refresh your recollection?

13 A. It just confirms what I said a moment ago. I
14 would not find this to be surprising. It would suggest
15 there was one, but, again, I don't recall whether there
16 was or was not.

17 Q. Do you have any reason to think there wouldn't
18 have been one?

19 ATTY. BAGGER: Objection.

20 THE WITNESS: I have no reason to know whether
21 there was or wasn't or why there was or wasn't a joint
22 defense agreement.

23 Q. Do you have any recollection of whether or not
24 attorneys from Epstein, Becker and Green and

1 specifically Carole Schwartz Rendon, were communicating
2 directly with lawyers from Latham and Watkins
3 concerning the investigations?

4 A. I have no knowledge.

5 ATTY. BAGGER: Objection. Foundation.

6 THE WITNESS: I have no knowledge of that.

7 ATTY. FLEISCHER: Let's mark this.

8 (Exhibit 4, 8/25/97 MEMO FROM CAROLE SCHWARTZ
9 RENDON, marked for identification.)

10

11 Q. Okay. Mr. Berman, you've just been handed what's
12 been marked as Exhibit 4, and if you could just take a
13 look at this document, please?

14 A. Okay.

15 Q. Do you have any recollection of having ever seen
16 this document before?

17 A. I don't have a specific recollection of seeing
18 this document, no.

19 Q. Do you have a general recollection of the matters
20 that are addressed in this memorandum?

21 A. Let me be clear on how I'm answering this. Yes,
22 the matters in here I'm certainly, as I previously
23 testified, that there were issues of campaign
24 contributions, it pertained to the PRDA, which was one

1 of the DOE contracts.

2 Q. Do you recall what PRDA stands for?

3 A. Planned Research Development Agreement or Program.

4 I'm not absolutely certain.

5 Q. But you have no specific recollection of the
6 document itself?

7 A. I do not.

8 Q. Do you have any specific recollection of
9 discussing the matters raised in this memorandum with
10 Carole Schwartz Rendon?

11 A. I have no recollection of discussing these matters
12 with Ms. Rendon.

13 Q. And do you recall whether or not you had any hand
14 in drafting this document?

15 A. It purports to be from Ms. Rendon and I appear to
16 be a recipient of it. To answer your question, no. I
17 have no recollection of me having a hand in drafting
18 this, no.

19 Q. Do you recall if you have ever seen it in draft
20 form?

21 A. I don't have a recollection of it.

22 Q. Can you turn to Page 6 of this document, Exhibit
23 4?

24 A. Yes.

1 Q. And there is a section there that's titled, V, in
2 Roman Numerals, "Concerns"?

3 A. Yes.

4 Q. I would ask you if you could read that section
5 just a little closely to yourself and that runs onto
6 Page 7, through Points 1, 2, 3, 4 and 5. Just let me
7 know when you've read those.

8 A. Okay.

9 Q. And now, turning back to Page 7, we'll go to the
10 first numbered point.

11 A. Yes.

12 Q. Do you know who Clyde Frank was?

13 A. I have a general recollection that he was an
14 employee of the Department of Energy.

15 Q. Now, Mr. Gatto, how do you pronounce his name?

16 A. That's correct, Gatto.

17 Q. Do you recall who represented Mr. Gatto in
18 connection with the investigations?

19 A. Mr. Touhey.

20 Q. He was not represented by Epstein, Becker and
21 Green?

22 A. Not to my knowledge, no.

23 Q. Do you recall having any discussions with
24 Ms. Rendon concerning the substance of Point 1?

1 A. I do not.

2 Q. Do you recall having any discussions with any of
3 the other officers or directors, employees of MMT
4 concerning the substance of the matters raised in Point
5 1?

6 A. I do not.

7 Q. Do you understand how the matter or the substance
8 of the matter raised in Point 1 would have affected
9 other individual employees of MMT?

10 ATTY. BAGGER: Objection to the form of the
11 question.

12 THE WITNESS: I do not.

13 Q. With respect to Point 2, do you recall having any
14 discussion with Ms. Rendon concerning the substance of
15 Point 2?

16 A. I do not.

17 Q. Do you recall having any discussions with any
18 other officers or directors or employees of MMT
19 concerning the substance of the matter addressed in
20 point 2?

21 A. I do not.

22 Q. And do you have any understanding of how the
23 substance of the -- strike that.

24 Do you understand how the issue raised in Point 2

1 would directly affect clients of Ms. Rendon --

2 ATTY. BAGGER: Objection.

3 Q. -- in the investigation?

4 ATTY. BAGGER: Objection. Foundation.

5 THE WITNESS: I do not.

6 Q. Point 3, do you recall discussing the substance of
7 Point 3 with Ms. Rendon?

8 A. I do not.

9 Q. Do you recall discussing the substance of Point 3
10 with any other officers, directors or employees of MMT
11 with Ms. Rendon -- strike that question.

12 Do you recall discussing the substance of the
13 matter raised in Point 3 with any other officers or
14 directors or employees of MMT?

15 A. I don't have any specific recollection of that.
16 Although, I do recall generally that discussions were
17 had about what the campaign contribution laws were and
18 what we needed to do to make sure we were legal in what
19 we did.

20 Q. Do you recall who you might have had those
21 discussions with?

22 A. No.

23 Q. Could it have been with Ms. Rendon?

24 A. No. I thought your question was MMT employees.

1 Q. I'm asking a different question now.

2 ATTY. BAGGER: To which I object to. Asked and
3 answered.

4 Q. Do you have any understanding how the issue raised
5 in Point 3 would have directly affected Ms. Rendon's
6 clients in the investigation?

7 ATTY. BAGGER: Objection. Foundation.

8 THE WITNESS: I do not.

9 Q. Point 4, please. Do you recall having any --
10 strike that.

11 Do you recall having any discussions with
12 Ms. Rendon concerning the issue raised in Point 4?

13 A. I do not.

14 Q. Do you recall having any discussions with any
15 other officers or directors or employees of MMT
16 concerning the issue raised in Point 4?

17 A. Other than repeating what I said before,
18 contributions, whether they be cash or in kind, we were
19 sensitive and I would recall general discussions of
20 that issue for compliance reasons, but I don't recall
21 any specific conversations or with whom I might have
22 had that conversation within MMT.

23 Q. Say that again.

24 A. With MMT employees. I have no such recollection

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1 of any such conversations with Ms. Rendon. I'm
2 answering that with regard to what I thought your
3 question was with regard to MMT employees.

4 Q. Do you recall the specific MMT employees?

5 A. I do not.

6 Q. Do you have any understanding of how the issue
7 raised in Point 4 would have any effect on Ms. Rendon's
8 clients in the investigation?

9 A. I do not.

10 Q. And, lastly, I'm going to ask the same series of
11 questions with respect to Point 5.

12 A. Certainly.

13 Q. Do you recall having any discussions with
14 Ms. Rendon concerning the issues raised in Point 5?

15 A. I do not.

16 Q. Do you recall having any discussions with other
17 officers, directors or employees of MMT -- I'm sorry.
18 Strike that.

19 ATTY. BAGGER: You keep saying other employees and
20 officers of MMT after asking about Ms. Rendon who is
21 not an officer or employee of MMT.

22 ATTY. FLEISCHER: I struck the question and for
23 that reason.

24 ATTY. BAGGER: Okay.

1 Q. Do you recall having any discussions with any
2 officers or directors or employees of MMT concerning
3 the issues raised in Point 5?

4 A. I do not.

5 Q. Do you have any understanding as to how the issue
6 raised in Point 5 would have any impact on Ms. Rendon's
7 clients?

8 ATTY. BAGGER: Objection.

9 THE WITNESS: I do not.

10 Q. We're done with that document. You don't have to
11 look at it anymore.

12 A. Thank you.

13 ATTY. BAGGER: Anymore than you need to.

14 ATTY. FLEISCHER: Off the record a second.

15

16 (Recess taken.)

17

18 ATTY. FLEISCHER: Back on the record. Mark this.

19 (Exhibit 5, JOINT DEFENSE DOCUMENT, marked for
20 identification.)

21

22 Q. You've just been handed what's been marked Exhibit
23 5, I believe, Mr. Berman.

24 A. Yes.

1 A. I have no, you know, current recollection of it.
2 Although, I have no reason to think it's not an
3 accurate depiction of what -- well, it looks like my
4 signature at the bottom.

5 Q. Turn to the fourth page.

6 A. Fourth page of the whole document?

7 Q. Yes, and what does that appear to you to be
8 there -- strike that.

9 What is it that you note there -- strike that, as
10 well.

11 A. I want to make sure I'm looking at the right page.

12 Q. There are the numbers RW852 in the lower
13 right-hand corner.

14 A. Correct.

15 Q. Do you see time entries for 2/27/98?

16 A. I do.

17 Q. Can you just take a look at those, read those to
18 yourself for a moment?

19 ATTY. BAGGER: Can you read the Bates number
20 again?

21 ATTY. FLEISCHER: RW852.

22 ATTY. BAGGER: Thank you.

23 THE WITNESS: Okay.

24 Q. Who was J. Grabmeier?

1 A. One of the accounting people at MMT.

2 Q. He was an MMT employee?

3 A. Correct.

4 Q. Do you recall having -- and, again, do you recall
5 having any particular, any telephone conferences with
6 Carole Schwartz Rendon?

7 A. Well, this certainly suggests I did have them. To
8 answer your question specifically, I don't really
9 recall having those conversations.

10 Q. And these -- the time entries that appear on this
11 document and there are several here that reference you?

12 A. Correct.

13 Q. None of them refresh your recollection as to
14 conferences with Carole Schwartz Rendon?

15 ATTY. BAGGER: To whether there were conversations
16 or the context of the conversations?

17 ATTY. FLEISCHER: I'm not asking about the
18 contents. Just whether or not it refreshes his
19 recollection.

20 ATTY. BAGGER: As to whether he had conversations
21 with Carole Rendon?

22 THE WITNESS: As I said, I previously testified I
23 think that I knew who she was. My job was to review
24 invoices for payment. Reading this, the only further

1 refreshment of my recollection would be there were also
2 scheduling issues as far as when these people were to
3 be made available and when they were, you know, being
4 either subpoenaed to testify and I do -- I would
5 certainly think at least that's what the substance of
6 these entries might suggest.

7 Q. So you do recall that you spoke with her directly
8 about scheduling the testimony of the individuals that
9 she represented?

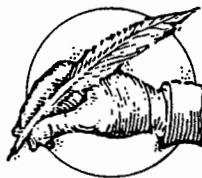
10 A. My recollection is most clearly that it was on
11 budgetary concerns, but I do have a general
12 recollection, and this somewhat refreshes it, that I
13 would have logically additionally spoke about
14 scheduling, availability and when these -- we had a
15 very small company at that point and getting these
16 people kind of pulled out of the office and tied up was
17 one of the concerns that I was also addressing, yes.

18 Q. With respect to the budget, was there a set budget
19 for each of the firms involved or was there a
20 litigation budget?

21 A. At some juncture there was a set budget that was
22 approved by the creditor's committee. That's the only
23 strong recollection that I have. Prior to that, prior
24 to let's say the Chapter 11 proceedings being

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Transcript of the Testimony of:

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April 13, 2006

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1 ATTY. COOKE: If it is, I'm not going to have a
2 problem with it. But you are asking him now about
3 conversations he had with people in 1999.

4 ATTY. FLEISCHER: Well, let's understand what the
5 litigation is about here. It's about representation of
6 Allied Technology Group that took place in late 1998
7 and into 1999.

8 ATTY. COOKE: No. The liability phase goes to
9 what happened with respect to what Epstein, Becker and
10 Green knew prior to the closing on December 1, 1998.
11 We have a court order. I might even have it with me.

12 ATTY. FLEISCHER: Let's go off the record.

13

14 (Discussion held off record.)

15

16 ATTY. FLEISCHER: Back on the record.

17 Q. Are you -- do you have any understanding of
18 whether or not Epstein, Becker and Green was party to a
19 joint defense agreement in connection with the MMT
20 investigations?

21 A. I don't know whether they were or not.

22 Q. You don't know. Do you have any reason to believe
23 they may have been?

24 ATTY. COOKE: Objection.

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1 THE WITNESS: I have no reason to believe that
2 they were.

3 Q. That's essentially what I'm asking.

4 A. Slightly different.

5 Q. Do you recall specifically when you first started
6 speaking with -- strike the question.

7 When did you first start to get involved in the
8 MMT matter?

9 ATTY. COOKE: Objection. What do you mean by the
10 "MMT matter"?

11 ATTY. FLEISCHER: The investigations. The matters
12 that Ms. Rendon had been working on?

13 ATTY. COOKE: Objection to the form of the
14 question. No foundation.

15 THE WITNESS: I don't believe that I ever actually
16 got involved with the investigations. Ms. Rendon left
17 Epstein Becker and asked me whether I would, in the
18 event that the investigations continued, serve as local
19 counsel to her, you know, if she needed to come to
20 Boston or needed something done with the various
21 agencies. My recollection is she took the file. She
22 intended to continue to keep those clients if, but only
23 if, the investigation, in fact, continued.

24 My recollection is that it had pretty much run its

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1 course by the time that she left. So she asked me
2 whether I would do that and I agreed that I would do
3 that, but my recollection is that, in fact, I never
4 needed to do that.

5 Q. Thank you. That's what I was looking for.

6 Do you know who Rhonda Walker was?

7 A. I know her only as an employee of MMT.

8 Q. Are you familiar at all with the issues between
9 her and MMT?

10 ATTY. COOKE: Objection.

11 THE WITNESS: Only that there were -- I'm now
12 testifying about knowledge that I learned much later,
13 but that I came to understand that Ms. Walker had a
14 dispute with MMT.

15 Q. Did you ever come to understand how it was
16 resolved?

17 A. I have no idea.

18 ATTY. FLEISCHER: I'll mark a document, please.

19 (Exhibit 1, 11/3/06 PACKAGE OF DOCUMENTS, marked
20 for identification.)

21

22 Q. The document that we're marking is one of those
23 documents that is labeled as confidential. It will be
24 Exhibit 1. Just to let you know, the document was

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1 discussions about the possibility of representation.
2 Hence, I believed that there was already confidential
3 information that had been provided to me and so
4 accordingly we had to examine the question about
5 whether that preliminary pre-representation status
6 affected Epstein Becker's potential representation of
7 ATG. So that's what I meant by that.

8 Q. And there is in, I believe it was Exhibit 2 -- is
9 that Exhibit 2?

10 A. Yes.

11 Q. Maybe Exhibit 1. In Exhibit 1, there was a
12 reference to joint defense communication.

13 Was Epstein, Becker and Green a party to any joint
14 defense agreement with respect to the MMT shareholder
15 litigation prior to December 1, 1998?

16 ATTY. FLEISCHER: Objection. Foundation.

17 THE WITNESS: I am unaware of -- I do not believe
18 Epstein Becker was a party to a joint defense agreement
19 during the Molten Metal shareholder litigation before
20 December 1, 1998.

21 Q. When you referred to confidential information that
22 had been provided in these preliminary discussions
23 about the possibility, were you referring to the
24 documents that were provided to you by Ms. Rendon that

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1 A. No.

2 Q. And in 2000?

3 A. No.

4 Q. Were you -- are you aware of -- did you become
5 aware prior to December 1st of 1998 that MMT had been
6 involved in a securities class action litigation?

7 A. No.

8 Q. Did you ever become aware that MMT was involved in
9 a securities class action litigation?

10 A. Yes.

11 Q. To the best of your recollection, when did you
12 first become aware of that?

13 A. I can't recall, but I believe it was sometime in
14 the -- in January or February of 1999.

15 Q. Do you know who Carole Schwartz Rendon is?

16 A. I do.

17 Q. Do you personally know her?

18 A. I do.

19 Q. When did you first meet Carole Schwartz Rendon?

20 A. I honestly don't recall. I interviewed her as a
21 part of the possibility that she would join us as a
22 lawyer and I don't remember the dates on that. I don't
23 remember the years, but that's when I first met her.

24 Q. Would that have been prior to 1998?

1 A. I think it probably was. It would have been, yes.

2 Q. Did you work with her at Epstein Becker?

3 A. No.

4 Q. Did you work at the same office where she worked?

5 A. You mean the same -- did she work at the Boston
6 office?

7 Q. Yes.

8 A. Yes.

9 Q. Did you become aware that she had represented
10 various individuals in connection with certain
11 investigations, federal government investigations of
12 Molten Metal Technology, Inc.?

13 A. I would say yes, but my awareness is very dim. In
14 other words, I don't have any -- I seem to recall that
15 she was involved in some way or another, but I have no
16 memory of what it was about.

17 Q. Do you recall when you may have first became
18 aware?

19 A. I believe it was -- I believe it was at the time
20 that John Preston became a client of the firm.

21 Q. When was that?

22 A. I think that was in January or maybe February of
23 1999.

24 Q. Did you have any discussions with Mr. Preston